

AMENDED IN SENATE MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 98

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Allen, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2011

~~An act relating to the Budget Act of 2011.~~ *An act to amend Sections 4626, 4627, 4639, 4640.6, and 4791 of, to add Sections 4620.3, 4622.5, 4625.5, 4626.5, 4629.5, 4629.7, 4648.12, 4648.14, and 4652.5 to, and to add Article 2.6 (commencing with Section 4659.10) to Chapter 5 of Division 4.5 of, the Welfare and Institutions Code, and to amend Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, relating to developmental services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

AB 98, as amended, Committee on Budget. ~~Budget Act of 2011.~~ *Developmental services.*

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to enter into contracts with private nonprofit corporations to operate regional centers for the provision of community services and support for persons with developmental disabilities and their families. Existing law sets forth the duties of the regional centers, including, but not limited to, development of individual program plans, the purchase of needed services to implement the plan, and monitoring of the delivery of those services.

This bill would require the department, in collaboration with stakeholders, to develop best practices for the administrative management of regional centers and for regional centers to use when purchasing services for consumers and families, as specified. The bill would require the department to submit the proposed best practices to the fiscal and applicable policy committees of the Legislature no later than May 15, 2011, and would make the best practices effective only upon subsequent legislative enactment.

Existing law establishes minimum requirements relating to the composition of the governing board of a regional center. Existing law requires the department to adopt and enforce conflict-of-interest regulations to ensure that members of the governing board, program policy committee, and employees of the regional center make decisions with respect to the regional centers that are in the best interests of consumers and families.

This bill would require the regional center to annually submit to the department documentation demonstrating that the composition of the board is in compliance with the statutory provisions. This bill would require a regional center governing board to adopt a written policy requiring any regional center contract of \$250,000 or more to be approved by the regional center governing board, and would condition the validity of those contracts upon board approval in compliance with that policy. The bill would also require that the department adopt emergency and other regulations to establish standard conflict-of-interest reporting requirements to require regional center board members, directors, and identified employees to complete and file conflict-of-interest statements. The bill would make conforming changes and would delete provisions permitting persons who served on a board or program policy committee on January 1, 1982, to continue to serve. The bill would require each regional center to submit a conflict-of-interest policy to the department by July 1, 2011, and to post the policy on its Internet Web site by August 1, 2011.

Existing law requires the 5-year contracts between the department and the regional center to contain prescribed provisions, including, but not limited to, the requirement that the contracts include annual performance objectives.

This bill would, in addition, require that the contracts include provisions requiring the regional center to adopt, maintain, and post on its Internet Web site a transparency and public information policy containing prescribed components. The bill would require the

department to establish a transparency portal on its Internet Web site to include, but not be limited to, a link to the regional center transparency and public information policy Internet Web sites, and other service monitoring and enforcement information.

The bill would require, notwithstanding any other provision of law, all regional center contracts with the department, and all regional center contracts or agreements with service providers, to require that not more than 15% of regional center funds be spent on administrative costs, as defined. This bill would require service providers and contractors, upon request, to provide regional centers with access to specified information pertaining to the service providers' and contractors' negotiated rates.

Existing law also requires the governing board of a regional center to annually contract with an independent accounting firm for an audited financial statement.

This bill would prohibit the audit of a regional center from being completed by the same accounting firm more than 5 times in every 10 years.

Under existing law, regional center contracts require certain specified staffing levels and expertise, which have been suspended from July 1, 2010, to June 30, 2011.

This bill would suspend those staffing requirements through June 30, 2012.

Under existing law, regional centers purchase needed services for individuals with developmental disabilities through approved service providers or arrange for their provision through other publicly funded agencies. Existing law provides for a vendorization process for service providers.

This bill would make certain persons or entities that have been convicted of prescribed crimes or have been found liable for fraud or abuse in any civil proceeding, or that have entered into a settlement in lieu of conviction for fraud or abuse in any government program, within the previous 10 years, ineligible to be regional center vendors, and would require the department to adopt related emergency and nonemergency regulations. The bill would require the State Department of Social Services and the State Department of Public Health to notify the department of any administrative action, as defined, initiated against a licensee serving consumers with developmental disabilities.

This bill would require an entity receiving payments from one or more regional centers, except for state and local governmental agencies, the

University of California, or the California State University, to contract with an independent accounting firm for an audit or review of that entity's financial statements, as specified. The bill would require regional centers to review and require resolution by the entity for issues identified in the report that have a direct or indirect impact on regional center services and to take appropriate action, up to termination of vendorization, for lack of adequate resolution of issues. The bill would require a regional center to notify the department of all qualified opinion reports or reports noting significant issues that directly or indirectly impact regional center services within 30 days after receipt.

Existing law, the California Early Intervention Services Act, provides various early intervention services for infants and toddlers who have disabilities to enhance their development and to minimize the potential for developmental delays. Existing law establishes procedures for the resolution of disputes between a regional center and a generic agency, as defined, over provision of, or payment for, services that are contained in an individualized family service plan or individual program plan for any child under 6 years of age.

This bill would establish procedures authorizing the department or regional center to institute legal proceedings against a 3rd party or insurance carrier, as specified, when developmental services are provided or will be provided to a developmental services consumer, or a child under 36 months of age who is eligible for the California Early Intervention Program, as a result of an injury for which the 3rd party or carrier is liable.

This bill would entitle the department or regional center to recover the reasonable value of services provided to the child or consumer from a person who has brought an action or claim against a 3rd party who may be liable for causing the death of the child or consumer. The bill would provide for a similar recovery provision when the action is brought by the child or consumer, but would provide for the deduction of a share of the child's or consumer's attorney's fees and litigation costs from the reasonable value of the services provided, as specified. The bill would set forth the powers and duties of the department in recouping these amounts, and would prohibit the department or regional center from recovering an amount greater than the child or consumer.

This bill would establish procedures for the enforcement of a lien perfected by the department or regional center upon a judgment or award in favor of a child or consumer for a 3rd-party injury. This bill would require an insurer, as defined, to perform various duties relating

to actions or claims brought pursuant to the bill, including a requirement to make requested information available to the department or regional center, pursuant to procedures set forth in a cooperative agreement entered into by the insurer and the department or regional center.

Existing law requires regional centers, in order to implement changes in the level of funding for regional center purchase of services, to reduce certain payments for services delivered by 4.25% from July 1, 2010, to June 30, 2011, except as specified, and authorizes the temporary modification of personnel requirements, functions, or qualifications, or staff training requirements, and suspends prescribed annual review and reporting requirements for affected providers, until June 30, 2011.

This bill would continue those provisions until June 30, 2012.

This bill would appropriate \$1,000 from the General Fund to the State Department of Developmental Services for administrative costs.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute and a bill providing for appropriations related to the Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2011.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4620.3 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 4620.3. (a) To provide more uniformity and consistency in the
- 4 administrative practices and services of regional centers
- 5 throughout the state, promote appropriateness of services,

1 maximize efficiency of funding, address the state budget deficit,
2 ensure consistency with Lanterman Act values, maintain the
3 entitlement to services, and improve cost-effectiveness, the
4 department, in collaboration with stakeholders, shall develop best
5 practices for the administrative management of regional centers
6 and for regional centers to use when purchasing services for
7 consumers and families.

8 (b) In developing regional center administrative management
9 best practices, the department shall consider the establishment of
10 policies and procedures to ensure prudent fiscal and program
11 management by regional centers; effective and efficient use of
12 public resources; consistent practices to maximize the use of
13 federal funds; detection and prevention of fraud, waste, and abuse;
14 and proper contracting protocols.

15 (c) In developing purchase of services best practices, the
16 department shall consider eligibility for the service; duration of
17 service necessary to meet objectives set in an individual program
18 plan; frequency and efficacy of the service necessary to meet
19 objectives in an individual program plan; impact on community
20 integration; service providers' qualifications and performance;
21 rates; parental and consumer responsibilities pursuant to Sections
22 4646.4, 4659, 4677, 4782, 4783 and 4784 of this code and Section
23 95004 of Government Code; and self-directed service options.

24 (d) The department shall ensure that implementation of best
25 practices that impact individual services and supports are made
26 through the individual program planning process as provided for
27 in this division or an individualized family service plan pursuant
28 to Section 95020 of the Government Code, and that consumers
29 and families are notified of any exceptions or exemptions to the
30 best practices and their appeal rights established in Section 4701.

31 (e) Purchase of services best practices developed pursuant to
32 this section may vary by service category and may do all of the
33 following:

34 (1) Establish criteria determining the type, scope, amount,
35 duration, location, and intensity of services and supports purchased
36 by regional centers for consumers and their families.

37 (2) Modify payment rates.

38 (3) Reflect family and consumer responsibilities, pursuant to
39 Sections 4646.4, 4659, 4677, 4782, 4783, and 4784 of this code
40 and Section 95004 of Government Code.

1 (f) *Purchase of services best practices shall include provisions*
2 *for exceptions to ensure the health and safety of the consumer or*
3 *to avoid out-of-home placement or institutionalization.*

4 (g) *Best practices developed pursuant to this section shall not*
5 *do either of the following:*

6 (1) *Endanger a consumer's health or safety.*

7 (2) *Compromise the state's ability to meet its commitments to*
8 *the federal Centers for Medicare and Medicaid Services for*
9 *participation in the Home and Community-Based Services Waiver*
10 *or other federal funding of services for persons with developmental*
11 *disabilities.*

12 (h) *The department shall submit the proposed best practices to*
13 *the fiscal and applicable policy committees of the Legislature by*
14 *no later than May 15, 2011. This submission shall include a*
15 *description of the process followed to collaborate with system*
16 *stakeholders; the anticipated impact of the best practices, coupled*
17 *with prior reductions on consumers, families, and providers;*
18 *estimated cost savings associated with each practice; and draft*
19 *statutory language necessary to implement the best practices.*
20 *Implementation of the best practices shall take effect only upon*
21 *subsequent legislative enactment.*

22 SEC. 2. *Section 4622.5 is added to the Welfare and Institutions*
23 *Code, to read:*

24 4622.5. *By August 15 of each year, the governing board of*
25 *each regional center shall submit to the department detailed*
26 *documentation, as determined by the department, demonstrating*
27 *that the composition of the board is in compliance with Section*
28 *4622.*

29 SEC. 3. *Section 4625.5 is added to the Welfare and Institutions*
30 *Code, to read:*

31 4625.5. (a) *The governing board of each regional center shall*
32 *adopt and maintain a written policy requiring the board to review*
33 *and approve any regional center contract of two hundred fifty*
34 *thousand dollars (\$250,000) or more, before entering into the*
35 *contract.*

36 (b) *No regional center contract of two hundred fifty thousand*
37 *dollars (\$250,000) or more shall be valid unless approved by the*
38 *governing board of the regional center in compliance with its*
39 *written policy pursuant to subdivision (a).*

1 (c) For purposes of this section, contracts do not include vendor
2 approval letters issued by regional centers pursuant to Section
3 54322 of Title 17 of the California Code of Regulations.

4 SEC. 4. Section 4626 of the Welfare and Institutions Code is
5 amended to read:

6 4626. (a) ~~In~~The department shall give a very high priority to
7 ensuring that regional center board members and employees act
8 in the course of their duties solely in the best interest of the
9 regional center consumers and their families without regard to
10 the interests of any other organization with which they are
11 associated or persons to whom they are related. Board members,
12 employees, and others acting on the regional center's behalf, as
13 defined in regulations issued by the department, shall be free from
14 conflicts of interest that could adversely influence their judgment,
15 objectivity, or loyalty to the regional center, its consumers, or its
16 mission.

17 (b) In order to prevent potential conflicts of interest, no member
18 of the governing board or member of the program policy committee
19 of a regional center shall be any of the following:

20 (1) An employee of the State Department of Developmental
21 Services or any state or local agency ~~which~~ that provides services
22 to a regional center ~~client~~ consumer, if employed in a capacity
23 which includes administrative or policymaking responsibility, or
24 responsibility for the regulation of the regional center.

25 (2) An employee or a member of the state council or an area
26 board.

27 (3) Except as otherwise provided in subdivision (h) of Section
28 4622, an employee or member of the governing board of any entity
29 from which the regional center purchases ~~client~~ consumer services.

30 (4) Any person who has a financial interest, as defined in Section
31 87103 of the Government Code, in regional center operations,
32 except as a consumer of regional center services.

33 ~~(b) Notwithstanding paragraph (1) of subdivision (a), members~~
34 ~~serving on the governing board or program policy committee of a~~
35 ~~regional center on January 1, 1982, may continue to serve on the~~
36 ~~board or committee until the expiration of their term as defined in~~
37 ~~subdivision (f) of Section 4622. Notwithstanding any other~~
38 ~~provision of this section, members serving on the governing board~~
39 ~~or program policy committee of a regional center on January 1,~~
40 ~~1982, may continue to serve on the board or committee until the~~

1 expiration of their current term. Changes in the composition of the
2 board or committee required by amendments to this section that
3 are operative on January 1, 1982, shall apply only to subsequent
4 vacancies on the board or committee.

5 (c) A person with a developmental disability who receives
6 employment services through a regional center provider shall not
7 be precluded from serving on the governing board of a regional
8 center based solely upon receipt of these employment services.

9 (d) The department shall ensure that no regional center
10 employee or board member has a conflict of interest with an entity
11 that receives regional center funding, including, but not limited
12 to, a nonprofit housing organization and an organization qualified
13 under Section 501(c)(3) of the Internal Revenue Code, that actively
14 functions in a supporting relationship to the regional center.

15 (e) The department shall develop and publish a standard
16 conflict-of-interest reporting statement. The conflict-of-interest
17 statement shall be completed by each regional center governing
18 board member and each regional center employee specified in
19 regulations, including, at a minimum, the executive director, every
20 administrator, every program director, every service coordinator,
21 and every employee who has decisionmaking or policymaking
22 authority or authority to obligate the regional center's resources.

23 (f) Every new regional center governing board member and
24 regional center executive director shall complete and file the
25 conflict-of-interest statement described in subdivision (e) with his
26 or her respective governing board within 30 days of being selected,
27 appointed, or elected. Every new regional center employee
28 referenced in subdivision (e) and every current regional center
29 employee referenced in subdivision (e) accepting a new position
30 within the regional center shall complete and file the
31 conflict-of-interest statement with his or her respective regional
32 center within 30 days of assuming the position.

33 (g) Every regional center board member and regional center
34 employee referenced in subdivision (e) shall complete and file the
35 conflict-of-interest statement by August 1 of each year.

36 (h) Every regional center board member and regional center
37 employee referenced in subdivision (e) shall complete and file a
38 subsequent conflict-of-interest statement upon any change in status
39 that creates a potential or present conflict of interest. For the
40 purposes of this subdivision, a change in status includes, but is

1 *not limited to, a change in financial interests, legal commitment,*
2 *regional center or board position or duties, or both, or outside*
3 *position or duties, or both, whether compensated or not.*

4 *(i) The governing board shall submit a copy of the completed*
5 *conflict-of-interest statements of the governing board members*
6 *and the regional center executive director to the department within*
7 *10 days of receipt of the statements.*

8 *(j) A person who knowingly provides false information on a*
9 *conflict-of-interest statement required by this section shall be*
10 *subject to a civil penalty in an amount up to fifty thousand dollars*
11 *(\$50,000), in addition to any civil remedies available to the*
12 *department. An action for a civil penalty under this provision may*
13 *be brought by the department or any public prosecutor in the name*
14 *of the people of the State of California.*

15 *(k) The director of the regional center shall review the*
16 *conflict-of-interest statement of each regional center employee*
17 *referenced in subdivision (e) within 10 days of receipt of the*
18 *statement. If a potential or present conflict of interest is identified*
19 *for a regional center employee that cannot be eliminated, the*
20 *regional center shall, within 30 days of receipt of the statement,*
21 *submit to the department a copy of the conflict-of-interest statement*
22 *and a plan that proposes mitigation measures, including*
23 *timeframes and actions the regional center or the employee, or*
24 *both, will take to mitigate the conflict of interest.*

25 *(l) The department and the regional center governing board*
26 *shall review the conflict-of-interest statement of the regional center*
27 *executive director and each regional center board member to*
28 *ensure that no conflicts of interest exist. If a present or potential*
29 *conflict-of-interest is identified for a regional center director or*
30 *a board member that cannot be eliminated, the regional center*
31 *governing board shall, within 30 days of receipt of the statement,*
32 *submit to the department and the state council a copy of the*
33 *conflict-of-interest statement and a plan that proposes mitigation*
34 *measures, including timeframes and actions the regional center*
35 *governing board or the individual, or both, will take to mitigate*
36 *the conflict of interest.*

37 *SEC. 5. Section 4626.5 is added to the Welfare and Institutions*
38 *Code, to read:*

39 *4626.5. Each regional center shall submit a conflict-of-interest*
40 *policy to the department by July 1, 2011, and shall post the policy*

1 on its Internet Web site by August 1, 2011. The policy shall do, or
2 comply with, all of the following:

3 (a) Contain the elements of this section and be consistent with
4 applicable law.

5 (b) Define conflicts of interest.

6 (c) Identify positions within the regional center required to
7 complete and file a conflict-of-interest statement.

8 (d) Facilitate disclosure of information to identify conflicts of
9 interest.

10 (e) Require candidates for nomination, election, or appointment
11 to a regional center board, and applicants for regional center
12 director to disclose any potential or present conflicts of interest
13 prior to being appointed, elected, or confirmed for hire by the
14 regional center or the regional center governing board.

15 (f) Require the regional center and its governing board to
16 regularly and consistently monitor and enforce compliance with
17 its conflict-of-interest policy.

18 SEC. 6. Section 4627 of the Welfare and Institutions Code is
19 amended to read:

20 4627. (a) The director of the department shall ~~promulgate~~
21 ~~adopt and enforce conflict-of-interest~~ conflict-of-interest regulations
22 to ~~insure~~ ensure that members of the governing board, program
23 policy committee, and employees of the regional center make
24 decisions with respect to the regional centers that are in the best
25 interests of the center's ~~clients~~ consumers and families.

26 (b) The department shall monitor and ensure the regional
27 centers' compliance with this section and Sections 4626 and
28 4626.5. Failure to disclose information pursuant to these sections
29 and related regulations may be considered grounds for removal
30 from the board or for termination of employment.

31 (c) The department shall adopt regulations to develop standard
32 conflict-of-interest reporting requirements.

33 (d) The department shall adopt emergency regulations to
34 implement this section and Sections 4626 and 4626.5 by May 1,
35 2011. The adoption, amendment, repeal, or readoption of a
36 regulation authorized by this section is deemed to be necessary
37 for the immediate preservation of the public peace, health and
38 safety, or general welfare, for purposes of Sections 11346.1 and
39 11349.9 of the Government Code, and the department is hereby
40 exempted from that requirement. For purposes of subdivision (e)

1 of Section 11346.1 of the Government Code, the 120-day period,
2 as applicable to the effective period of an emergency regulatory
3 action and submission of specified materials to the Office of
4 Administrative Law, is hereby extended to 180 days.

5 (e) The department shall adopt regulations to implement the
6 terms of subdivision (d) through the regular rulemaking process
7 pursuant to Sections 11346 and 11349.1 of the Government Code
8 within 18 months of the adoption of emergency regulations
9 pursuant to subdivision (d).

10 SEC. 7. Section 4629.5 is added to the Welfare and Institutions
11 Code, to read:

12 4629.5. (a) In addition to the requirements set forth in Section
13 4629, the department's contract with a regional center shall
14 require the regional center to adopt, maintain, and post on its
15 Internet Web site a board-approved policy regarding transparency
16 and access to public information. The transparency and public
17 information policy shall provide for timely public access to
18 information, including, but not limited to, information regarding
19 requests for proposals and contract awards, service provider rates,
20 documentation related to establishment of negotiated rates, audits,
21 and IRS Form 990. The transparency and public information policy
22 shall be in compliance with applicable law relating to the
23 confidentiality of consumer service information and records,
24 including, but not limited to, Section 4514.

25 (b) To promote transparency, each regional center shall include
26 on its Internet Web site, as expeditiously as possible, at least all
27 of the following:

- 28 (1) Regional center annual independent audits.
- 29 (2) Biannual fiscal audits conducted by the department.
- 30 (3) Regional center annual reports pursuant to Section 4639.5.
- 31 (4) Contract awards, including the organization or entity
32 awarded the contract, and the amount and purpose of the award.
- 33 (5) Purchase of service policies.
- 34 (6) The names, types of service, and contact information of all
35 vendors, except consumers or family members of consumers.
- 36 (7) Board meeting agendas and approved minutes of open
37 meetings of the board and all committees of the board.
- 38 (8) Bylaws of the regional center governing board.
- 39 (9) The annual performance contract and year-end performance
40 contract entered into with the department pursuant to this division.

1 (10) *The biannual Home and Community-based Services Waiver*
2 *program review conducted by the department and the State*
3 *Department of Health Care Services.*

4 (11) *The board-approved transparency and public information*
5 *policy.*

6 (12) *The board-approved conflict-of-interest policy.*

7 (13) *Reports required pursuant to Section 4639.5.*

8 (c) *The department shall establish and maintain a transparency*
9 *portal on its Internet Web site that allows consumers, families,*
10 *advocates, and others to access provider and regional center*
11 *information. Posted information on the department's Internet Web*
12 *site transparency portal shall include, but need not be limited to,*
13 *all of the following:*

14 (1) *A link to each regional center's Internet Web site information*
15 *referenced in subdivision (b).*

16 (2) *Biannual fiscal audits conducted by the department.*

17 (3) *Vendor audits.*

18 (4) *Biannual Home and Community-based Services Waiver*
19 *program reviews conducted by the department and the State*
20 *Department of Health Care Services.*

21 (5) *Biannual targeted case management program and federal*
22 *nursing home reform program reviews conducted by the*
23 *department.*

24 (6) *Early Start Program reviews conducted by the department.*

25 (7) *Annual performance contract and year-end performance*
26 *contract reports.*

27 SEC. 8. *Section 4629.7 is added to the Welfare and Institutions*
28 *Code, to read:*

29 4629.7. (a) *Notwithstanding any other provision of law, all*
30 *regional center contracts or agreements with service providers in*
31 *which rates are determined through negotiations between the*
32 *regional center and the service provider shall expressly require*
33 *that not more than 15 percent of regional center funds be spent*
34 *on administrative costs. For purposes of this subdivision, direct*
35 *service expenditures are those costs immediately associated with*
36 *the services to consumers being offered by the provider. Funds*
37 *spent on direct services shall not include any administrative costs.*
38 *Administrative costs include, but are not limited to, any of the*
39 *following:*

1 (1) Salaries, wages, and employee benefits for managerial
2 personnel whose primary purpose is the administrative
3 management of the entity, including, but not limited to, directors
4 and chief executive officers.

5 (2) Salaries, wages, and benefits of employees who perform
6 administrative functions, including, but not limited to, payroll
7 management, personnel functions, accounting, budgeting, and
8 facility management.

9 (3) Facility and occupancy costs, directly associated with
10 administrative functions.

11 (4) Maintenance and repair.

12 (5) Data processing and computer support services.

13 (6) Contract and procurement activities, except those provided
14 by a direct service employee.

15 (7) Training directly associated with administrative functions.

16 (8) Travel directly associated with administrative functions.

17 (9) Licenses directly associated with administrative functions.

18 (10) Taxes.

19 (11) Interest.

20 (12) Property insurance.

21 (13) Personal liability insurance directly associated with
22 administrative functions.

23 (14) Depreciation.

24 (15) General expenses, including, but not limited to,
25 communication costs and supplies directly associated with
26 administrative functions.

27 (b) Notwithstanding any other provision of law, all contracts
28 between the department and the regional centers shall require that
29 not more than 15 percent of all funds appropriated through the
30 regional center's operations budget shall be spent on
31 administrative costs. For purposes of this subdivision, "direct
32 services" includes, but is not limited to, service coordination,
33 assessment and diagnosis, monitoring of consumer services, quality
34 assurance, and clinical services. Funds spent on direct services
35 shall not include any administrative costs. For purposes of this
36 subdivision, administrative costs include, but are not limited to,
37 any of the following:

38 (1) Salaries, wages, and employee benefits for managerial
39 personnel whose primary purpose is the administrative

1 *management of the regional center, including, but not limited to,*
2 *directors and chief executive officers.*

3 *(2) Salaries, wages, and benefits of employees who perform*
4 *administrative functions, including, but not limited to, payroll*
5 *management, personnel functions, accounting, budgeting, auditing,*
6 *and facility management.*

7 *(3) Facility and occupancy costs, directly associated with*
8 *administrative functions.*

9 *(4) Maintenance and repair.*

10 *(5) Data processing and computer support services.*

11 *(6) Contract and procurement activities, except those performed*
12 *by direct service employees.*

13 *(7) Training directly associated with administrative functions.*

14 *(8) Travel directly associated with administrative functions.*

15 *(9) Licenses directly associated with administrative functions.*

16 *(10) Taxes.*

17 *(11) Interest.*

18 *(12) Property insurance.*

19 *(13) Personal liability insurance directly associated with*
20 *administrative functions.*

21 *(14) Depreciation.*

22 *(15) General expenses, including, but not limited to,*
23 *communication costs and supplies directly associated with*
24 *administrative functions.*

25 *(c) Consistent with subdivision (a), service providers and*
26 *contractors, upon request, shall provide regional centers with*
27 *access to any books, documents, papers, computerized data, source*
28 *documents, consumer records, or other records pertaining to the*
29 *service providers' and contractors' negotiated rates.*

30 *SEC. 9. Section 4639 of the Welfare and Institutions Code is*
31 *amended to read:*

32 *4639. (a) The governing board of a regional center shall*
33 *annually contract with an independent accounting firm for an*
34 *audited financial statement. The audit report and accompanying*
35 *management letter shall be reviewed and approved by the regional*
36 *center board and submitted to the department within 60 days of*
37 *completion and before April 1 of each year. Upon submission to*
38 *the department, the audit report and accompanying management*
39 *letter shall be made available to the public by the regional center.*

1 It is the intent of the Legislature that no additional funds be
2 appropriated for this purpose.

3 *(b) For the 2011–12 fiscal year and subsequent years, the audit*
4 *specified in subdivision (a) shall not be completed by the same*
5 *accounting firm more than five times in every 10 years.*

6 *SEC. 10. Section 4640.6 of the Welfare and Institutions Code*
7 *is amended to read:*

8 4640.6. (a) In approving regional center contracts, the
9 department shall ensure that regional center staffing patterns
10 demonstrate that direct service coordination are the highest priority.

11 (b) Contracts between the department and regional centers shall
12 require that regional centers implement an emergency response
13 system that ensures that a regional center staff person will respond
14 to a consumer, or individual acting on behalf of a consumer, within
15 two hours of the time an emergency call is placed. This emergency
16 response system shall be operational 24 hours per day, 365 days
17 per year.

18 (c) Contracts between the department and regional centers shall
19 require regional centers to have service coordinator-to-consumer
20 ratios, as follows:

21 (1) An average service coordinator-to-consumer ratio of 1 to
22 62 for all consumers who have not moved from the developmental
23 centers to the community since April 14, 1993. In no case shall a
24 service coordinator for these consumers have an assigned caseload
25 in excess of 79 consumers for more than 60 days.

26 (2) An average service coordinator-to-consumer ratio of 1 to
27 45 for all consumers who have moved from a developmental center
28 to the community since April 14, 1993. In no case shall a service
29 coordinator for these consumers have an assigned caseload in
30 excess of 59 consumers for more than 60 days.

31 (3) Commencing January 1, 2004, the following
32 coordinator-to-consumer ratios shall apply:

33 (A) All consumers three years of age and younger and for
34 consumers enrolled in the Home and Community-based Services
35 Waiver program for persons with developmental disabilities, an
36 average service coordinator-to-consumer ratio of 1 to 62.

37 (B) All consumers who have moved from a developmental
38 center to the community since April 14, 1993, and have lived
39 continuously in the community for at least 12 months, an average
40 service coordinator-to-consumer ratio of 1 to 62.

1 (C) All consumers who have not moved from the developmental
2 centers to the community since April 14, 1993, and who are not
3 described in subparagraph (A), an average service
4 coordinator-to-consumer ratio of 1 to 66.

5 (4) For purposes of paragraph (3), service coordinators may
6 have a mixed caseload of consumers three years of age and
7 younger, consumers enrolled in the Home and Community-based
8 Services Waiver program for persons with developmental
9 disabilities, and other consumers if the overall average caseload
10 is weighted proportionately to ensure that overall regional center
11 average service coordinator-to-consumer ratios as specified in
12 paragraph (3) are met. For purposes of paragraph (3), in no case
13 shall a service coordinator have an assigned caseload in excess of
14 84 for more than 60 days.

15 (d) For purposes of this section, “service coordinator” means a
16 regional center employee whose primary responsibility includes
17 preparing, implementing, and monitoring consumers’ individual
18 program plans, securing and coordinating consumer services and
19 supports, and providing placement and monitoring activities.

20 (e) In order to ensure that caseload ratios are maintained
21 pursuant to this section, each regional center shall provide service
22 coordinator caseload data to the department, annually for each
23 fiscal year. The data shall be submitted in the format, including
24 the content, prescribed by the department. Within 30 days of receipt
25 of data submitted pursuant to this subdivision, the department shall
26 make a summary of the data available to the public upon request.
27 The department shall verify the accuracy of the data when
28 conducting regional center fiscal audits. Data submitted by regional
29 centers pursuant to this subdivision shall:

30 (1) Only include data on service coordinator positions as defined
31 in subdivision (d). Regional centers shall identify the number of
32 positions that perform service coordinator duties on less than a
33 full-time basis. Staffing ratios reported pursuant to this subdivision
34 shall reflect the appropriate proportionality of these staff to
35 consumers served.

36 (2) Be reported separately for service coordinators whose
37 caseload includes any of the following:

38 (A) Consumers who are three years of age and older and who
39 have not moved from the developmental center to the community
40 since April 14, 1993.

1 (B) Consumers who have moved from a developmental center
2 to the community since April 14, 1993.

3 (C) Consumers who are younger than three years of age.

4 (D) Consumers enrolled in the Home and Community-based
5 Services Waiver program.

6 (3) Not include positions that are vacant for more than 60 days
7 or new positions established within 60 days of the reporting month
8 that are still vacant.

9 (4) For purposes of calculating caseload ratios for consumers
10 enrolled in the Home- and Community-based Services Waiver
11 program, vacancies shall not be included in the calculations.

12 (f) The department shall provide technical assistance and require
13 a plan of correction for any regional center that, for two consecutive
14 reporting periods, fails to maintain service coordinator caseload
15 ratios required by this section or otherwise demonstrates an
16 inability to maintain appropriate staffing patterns pursuant to this
17 section. Plans of correction shall be developed following input
18 from the local area board, local organizations representing
19 consumers, family members, regional center employees, including
20 recognized labor organizations, and service providers, and other
21 interested parties.

22 (g) Contracts between the department and regional center shall
23 require the regional center to have, or contract for, all of the
24 following areas:

25 (1) Criminal justice expertise to assist the regional center in
26 providing services and support to consumers involved in the
27 criminal justice system as a victim, defendant, inmate, or parolee.

28 (2) Special education expertise to assist the regional center in
29 providing advocacy and support to families seeking appropriate
30 educational services from a school district.

31 (3) Family support expertise to assist the regional center in
32 maximizing the effectiveness of support and services provided to
33 families.

34 (4) Housing expertise to assist the regional center in accessing
35 affordable housing for consumers in independent or supportive
36 living arrangements.

37 (5) Community integration expertise to assist consumers and
38 families in accessing integrated services and supports and improved
39 opportunities to participate in community life.

1 (6) Quality assurance expertise, to assist the regional center to
2 provide the necessary coordination and cooperation with the area
3 board in conducting quality-of-life assessments and coordinating
4 the regional center quality assurance efforts.

5 (7) Each regional center shall employ at least one consumer
6 advocate who is a person with developmental disabilities.

7 (8) Other staffing arrangements related to the delivery of
8 services that the department determines are necessary to ensure
9 maximum cost-effectiveness and to ensure that the service needs
10 of consumers and families are met.

11 (h) Any regional center proposing a staffing arrangement that
12 substantially deviates from the requirements of this section shall
13 request a waiver from the department. Prior to granting a waiver,
14 the department shall require a detailed staffing proposal, including,
15 but not limited to, how the proposed staffing arrangement will
16 benefit consumers and families served, and shall demonstrate clear
17 and convincing support for the proposed staffing arrangement from
18 constituencies served and impacted, that include, but are not limited
19 to, consumers, families, providers, advocates, and recognized labor
20 organizations. In addition, the regional center shall submit to the
21 department any written opposition to the proposal from
22 organizations or individuals, including, but not limited to,
23 consumers, families, providers, and advocates, including
24 recognized labor organizations. The department may grant waivers
25 to regional centers that sufficiently demonstrate that the proposed
26 staffing arrangement is in the best interest of consumers and
27 families served, complies with the requirements of this chapter,
28 and does not violate any contractual requirements. A waiver shall
29 be approved by the department for up to 12 months, at which time
30 a regional center may submit a new request pursuant to this
31 subdivision.

32 (i) From February 1, 2009, to June 30, 2010, inclusive, the
33 following shall not apply:

34 (1) The service coordinator-to-consumer ratio requirements of
35 paragraph (1), and subparagraph (C) of paragraph (3), of
36 subdivision (c).

37 (2) The requirements of subdivision (e). The regional centers
38 shall, instead, maintain sufficient service coordinator caseload data
39 to document compliance with the service coordinator-to-consumer
40 ratio requirements in effect pursuant to this section.

(3) The requirements of paragraphs (1) to (6), inclusive, of subdivision (g).

(j) From July 1, 2010, to June 30, ~~2011~~, 2012, inclusive, the following shall not apply:

(1) The service coordinator-to-consumer ratio requirements of paragraph (1), and subparagraph (C) of paragraph (3), of subdivision (c).

(2) The requirements of paragraphs (1) to (6), inclusive, of subdivision (g).

(k) (1) Any contract between the department and a regional center entered into on and after January 1, 2003, shall require that all employment contracts entered into with regional center staff or contractors be available to the public for review, upon request. For purposes of this subdivision, an employment contract or portion thereof may not be deemed confidential nor unavailable for public review.

(2) Notwithstanding paragraph (1), the social security number of the contracting party may not be disclosed.

(3) The term of the employment contract between the regional center and an employee or contractor shall not exceed the term of the state's contract with the regional center.

SEC. 11. Section 4648.12 is added to the Welfare and Institutions Code, immediately following Section 4648.1, to read:

4648.12. (a) The Legislature finds and declares that under federal and state law, certain individuals and entities are ineligible to provide Medicaid services.

(b) An individual, partnership, group association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that has been convicted of any felony or misdemeanor involving fraud or abuse in any government program, or related to neglect or abuse of an elder or dependent adult or child, or in connection with the interference with, or obstruction of, any investigation into health care related fraud or abuse, or that has been found liable for fraud or abuse in any civil proceeding, or that has entered into a settlement in lieu of conviction for fraud or abuse in any government program, within the previous 10 years, shall be ineligible to be a regional center vendor. The regional center shall not deny vendorization to an otherwise qualified applicant whose felony or misdemeanor

1 *charges did not result in a conviction solely on the basis of the*
2 *prior charges.*

3 *(c) In order to ensure compliance with federal disclosure*
4 *requirements and to preserve federal funding of consumer services,*
5 *the department shall do all of the following:*

6 *(1) (A) Adopt emergency regulations to amend provider and*
7 *vendor eligibility and disclosure criteria to meet federal*
8 *participation requirements. These emergency regulations shall*
9 *address, at a minimum, disclosure requirements of current and*
10 *prospective vendors, including information about entity ownership*
11 *and control, contracting interests, and criminal convictions or*
12 *civil proceedings involving fraud or abuse in any government*
13 *program, or abuse or neglect of an elder, dependent adult, or*
14 *child.*

15 *(B) Adopt emergency regulations to meet federal requirements*
16 *applicable to vouchered services.*

17 *(C) The adoption, amendment, repeal, or readoption of a*
18 *regulation authorized by this paragraph is deemed to be necessary*
19 *for the immediate preservation of the public peace, health and*
20 *safety, or general welfare, for purposes of Sections 11346.1 and*
21 *11349.9 of the Government Code, and the department is hereby*
22 *exempted from that requirement. For purposes of subdivision (e)*
23 *of Section 11346.1 of the Government Code, the 120-day period,*
24 *as applicable to the effective period of an emergency regulatory*
25 *action and submission of specified materials to the Office of*
26 *Administrative Law, is hereby extended to 180 days.*

27 *(2) Adopt nonemergency regulations to implement the terms of*
28 *paragraph (1) though the regular rulemaking process pursuant to*
29 *Sections 11346 and 11349.1 of the Government Code within 18*
30 *months of the adoption of emergency regulations pursuant to*
31 *paragraph (1).*

32 *SEC. 12. Section 4648.14 is added to the Welfare and*
33 *Institutions Code, immediately preceding Section 4648.2, to read:*

34 *4648.14. Notwithstanding any other provision of law, the State*
35 *Department of Social Services and the State Department of Public*
36 *Health shall notify the State Department of Developmental Services*
37 *of any administrative action initiated against a licensee serving*
38 *consumers with developmental disabilities. For the purposes of*
39 *this section "administrative action" includes, but is not limited*
40 *to, all of the following:*

1 (a) *The issuance of a citation requiring corrective action for a*
2 *health and safety violation.*

3 (b) *The temporary or other suspension or revocation of a*
4 *license.*

5 (c) *The issuance of a temporary restraining order.*

6 (d) *The appointment of a temporary receiver pursuant to Section*
7 *1327 of the Health and Safety Code.*

8 SEC. 13. *Section 4652.5 is added to the Welfare and Institutions*
9 *Code, to read:*

10 4652.5. (a) (1) *An entity receiving payments from one or more*
11 *regional centers shall contract with an independent accounting*
12 *firm for an audit or review of its financial statements subject to*
13 *all of the following:*

14 (A) *When the amount received from the regional center or*
15 *regional centers during the entity's fiscal year is more than or*
16 *equal to two hundred and fifty thousand dollars (\$250,000) but*
17 *less than five hundred thousand dollars (\$500,000), the entity shall*
18 *obtain an independent audit or independent review report of its*
19 *financial statements for the period. Consistent with Subchapter*
20 *21 (commencing with Section 58800) of Title 17 of the California*
21 *Code of Regulations, this subdivision shall also apply to work*
22 *activity program providers receiving less than two hundred fifty*
23 *thousand dollars (\$250,000).*

24 (B) *When the amount received from the regional center or*
25 *regional centers during the entity's fiscal year is equal to or more*
26 *than five hundred thousand dollars (\$500,000), the entity shall*
27 *obtain an independent audit of its financial statements for the*
28 *period.*

29 (2) *This requirement does not apply to payments made using*
30 *usual and customary rates, as defined by Title 17 of the California*
31 *Code of Regulations, for services provided by regional centers.*

32 (3) *This requirement does not apply to state and local*
33 *governmental agencies, the University of California, or the*
34 *California State University.*

35 (b) *An entity subject to subdivision (a) shall provide copies of*
36 *the independent audit or independent review report required by*
37 *subdivision (a), and accompanying management letters, to the*
38 *vendor of regional center within 30 days after completion of the*
39 *audit or review.*

1 (c) Regional centers receiving the audit or review reports
2 required by subdivision (b) shall review and require resolution by
3 the entity for issues identified in the report that have an impact on
4 regional center services. Regional centers shall take appropriate
5 action, up to termination of vendorization, for lack of adequate
6 resolution of issues.

7 (d) Regional centers shall notify the department of all qualified
8 opinion reports or reports noting significant issues that directly
9 or indirectly impact regional center services within 30 days after
10 receipt. Notification shall include a plan for resolution of issues.

11 (e) For purposes of this section, an independent review of
12 financial statements must be performed by an independent
13 accounting firm and shall cover, at a minimum, all of the following:

14 (1) An inquiry as to the entity's accounting principles and
15 practices and methods used in applying them.

16 (2) An inquiry as to the entity's procedures for recording,
17 classifying, and summarizing transactions and accumulating
18 information.

19 (3) Analytical procedures designed to identify relationships or
20 items that appear to be unusual.

21 (4) An inquiry about budgetary actions taken at meetings of the
22 board of directors or other comparable meetings.

23 (5) An inquiry about whether the financial statements have been
24 properly prepared in conformity with generally accepted
25 accounting principles and whether any events subsequent to the
26 date of the financial statements would have a material effect on
27 the statements under review.

28 (6) Working papers prepared in connection with a review of
29 financial statements describing the items covered as well as any
30 unusual items, including their disposition.

31 (f) For purposes of this section, an independent review report
32 shall cover, at a minimum, all of the following:

33 (1) Certification that the review was performed in accordance
34 with standards established by the American Institute of Certified
35 Public Accountants.

36 (2) Certification that the statements are the representations of
37 management.

38 (3) Certification that the review consisted of inquiries and
39 analytical procedures that are lesser in scope than those of an
40 audit.

1 (4) *Certification that the accountant is not aware of any material*
2 *modifications that need to be made to the statements for them to*
3 *be in conformity with generally accepted accounting principles.*

4 (g) *The department shall not consider a request for adjustments*
5 *to rates submitted in accordance with Title 17 of the California*
6 *Code of Regulations by an entity receiving payments from one or*
7 *more regional centers solely to fund either anticipated or*
8 *unanticipated changes required to comply with this section.*

9 SEC. 14. *Article 2.6 (commencing with Section 4659.10) is*
10 *added to Chapter 5 of Division 4.5 of the Welfare and Institutions*
11 *Code, to read:*

12
13 Article 2.6. *Third-Party Liability*
14

15 4659.10. *It is the intent of the Legislature that this article shall*
16 *be implemented consistent with the responsibilities of the*
17 *department and the regional centers to provide services and*
18 *supports pursuant to the requirements of this division and the*
19 *California Early Intervention Program. It is further the intent of*
20 *the Legislature that the department and the regional centers shall*
21 *continue to be the payers of last resort consistent with the*
22 *requirements of this division and the California Early Intervention*
23 *Program.*

24 4659.11. (a) *When services are provided or will be provided*
25 *to a consumer under this division, or to a child under 36 months*
26 *of age who is eligible for the California Early Intervention*
27 *Program pursuant to Title 14 of the Government Code*
28 *(commencing with Section 95000), as a result of an injury for*
29 *which another person is liable, or for which an insurance carrier*
30 *is liable in accordance with the provisions of any policy of*
31 *insurance issued pursuant to Section 11580.2 of the Insurance*
32 *Code, the department or the regional center from which the*
33 *individual obtained services shall have a right to recover from the*
34 *person or carrier the reasonable value of services so provided. To*
35 *enforce that right, the department or the regional center may*
36 *institute and prosecute legal proceedings against the third person*
37 *or carrier who may be liable for the injury in an appropriate court,*
38 *either in the name of the department or regional center or in the*
39 *name of the child or consumer, his or her guardian, conservator,*
40 *limited conservator, personal representative, estate, or survivors.*

1 ***(b) The department and the regional center may compromise,***
2 ***or settle and release a claim as described in subdivision (a).***

3 ***(c) The department may waive a claim as described in***
4 ***subdivision (a), in whole or in part, if the department determines***
5 ***that collection would not be cost-efficient, would result in undue***
6 ***hardship upon the consumer or child who suffered the injury, or***
7 ***in a wrongful death action upon the heirs of the deceased.***

8 ***(d) No action taken on behalf of the department or the regional***
9 ***center pursuant to this section or any judgment rendered in that***
10 ***action shall be a bar to any action upon the claim or cause of***
11 ***action of the child or consumer, his or her guardian, conservator,***
12 ***personal representative, estate, dependents, or survivors against***
13 ***the third party who may be liable for the injury, or shall operate***
14 ***to deny to the child or consumer the recovery for that portion of***
15 ***any damages not covered hereunder.***

16 ***(e) The department, the State Department of Health Care***
17 ***Services, and the Department of Managed Health Care shall work***
18 ***together to ensure that the recovery sought by the department,***
19 ***regional centers, and the State Department of Health Care Services***
20 ***for services for Medi-Cal beneficiaries with developmental***
21 ***disabilities is appropriate.***

22 4659.12. ***(a) Where an action is brought by the department or***
23 ***a regional center pursuant to Section 4659.11, it shall be***
24 ***commenced within the period prescribed in Section 338 of the***
25 ***Code of Civil Procedure.***

26 ***(b) The death of a consumer or child under 36 months of age***
27 ***who is eligible for the California Early Intervention Program does***
28 ***not abate any right of action established by Section 4659.11.***

29 ***(c) When an action or claim is brought by a person or persons***
30 ***entitled to bring the action or assert the claim against a third party***
31 ***who may be liable for causing the death of the child or consumer,***
32 ***any settlement, judgment, or award obtained is subject to the right***
33 ***of the department or the regional center to recover from that party***
34 ***the reasonable value of the services provided to the consumer***
35 ***under this division.***

36 ***(d) Where the action or claim is brought by the child or***
37 ***consumer alone, and the child or consumer incurs a personal***
38 ***liability to pay attorney's fees and costs of litigation, the claim for***
39 ***reimbursement by the department or the regional center of the***
40 ***services provided to the child or consumer shall be limited to the***

1 reasonable value of services less 25 percent, which represents the
2 department's or the regional center's reasonable share of
3 attorney's fees paid by the child or consumer, and that portion of
4 the cost of litigation expenses determined by multiplying by the
5 ratio of the full amount of the reasonable value of services so
6 provided to the full amount of the judgment, award, or settlement.

7 4659.13. (a) If a consumer or child under 36 months of age
8 who is eligible for the California Early Intervention Program, the
9 department, or a regional center brings an action or claim against
10 a third party or carrier, the consumer, child, regional center, or
11 department, within 30 days of filing the action, shall provide the
12 other persons or entities specified in this subdivision with written
13 notice by personal service or registered mail of the action or claim,
14 and of the name of the court or state or local agency in which the
15 action or claim is brought. Proof of the notice shall be filed in the
16 action or claim. If an action or claim is brought by the department,
17 the regional center, the child, or the consumer, any of the other
18 persons or entities described in this subdivision, at any time before
19 trial on the facts, may become a party to, or shall consolidate,
20 their action or claim with, another action or claim if brought
21 independently.

22 (b) If an action or claim is brought by the department or the
23 regional center pursuant to subdivision (a) of Section 4659.11,
24 written notice to the child, consumer, guardian, conservator,
25 personal representative, estate, or survivor given pursuant to this
26 section shall advise him or her of his or her right to intervene in
27 the proceeding, his or her right to obtain a private attorney of his
28 or her choice, and the department's right to recover the reasonable
29 value of the services provided.

30 4659.14. In the event of judgment or award in a suit or claim
31 against a third party or carrier:

32 (a) If the action or claim is prosecuted by the child or consumer
33 alone, the court or agency shall first order paid from any judgment
34 or award the reasonable litigation expenses incurred in
35 preparation and prosecution of the action or claim, together with
36 reasonable attorney's fees, when an attorney has been retained.
37 After payment of these expenses and attorney's fees the court or
38 agency, on the application of the department or the regional center,
39 shall allow as a lien against the amount of the settlement, judgment,
40 or award, the reasonable value of additional services provided to

1 *the child under the California Early Intervention Program or*
2 *consumer under this division, as provided in subdivision (d) of*
3 *Section 4659.12.*

4 *(b) If the action or claim is prosecuted both by the consumer*
5 *or child and the department or regional center, the court or agency*
6 *shall first order paid from any judgment or award the reasonable*
7 *litigation expenses incurred in preparation and prosecution of the*
8 *action or claim, together with reasonable attorney's fees based*
9 *solely on the services rendered for the benefit of the child or*
10 *consumer. After payment of these expenses and attorney's fees,*
11 *the court or agency shall apply out of the balance of the judgment*
12 *or award an amount sufficient to reimburse the department the*
13 *full amount of the reasonable value of services provided.*

14 *4659.15. Upon further application at any time before the*
15 *judgment or award is satisfied, the court shall allow as a further*
16 *lien the reasonable value of additional services provided arising*
17 *out of the same cause of action or claim provided on behalf of the*
18 *consumer under this division, or child under the California Early*
19 *Intervention Program, where the services were provided or became*
20 *payable subsequent to the original order.*

21 *4659.16. (a) No settlement, judgment, or award in any action*
22 *or claim by a consumer or child to recover damages for injuries,*
23 *where the department or regional center has an interest, shall be*
24 *deemed final or satisfied without first giving the department notice*
25 *and a reasonable opportunity to perfect and to satisfy the*
26 *department's or regional center's lien. Recovery of the lien from*
27 *an injured consumer's or child's action or claim is limited to that*
28 *portion of a settlement, judgment, or award that represents*
29 *payment for services provided on behalf of the consumer under*
30 *this division or a child under the California Early Intervention*
31 *Program. All reasonable efforts shall be made to obtain the*
32 *department's advance agreement to a determination as to what*
33 *portion of a settlement, judgment, or award represents payment*
34 *for services provided on behalf of the consumer under this division*
35 *or the child under the California Early Intervention Program.*
36 *Absent the department's advance agreement as to what portion of*
37 *a settlement, judgment, or award represents payment for medical*
38 *expenses, or medical care, provided to the child or consumer, the*
39 *matter shall be submitted to a court for decision. The department,*
40 *the regional center, or the child or consumer may seek resolution*

1 of the dispute by filing a motion, which shall be subject to regular
2 law and motion procedures.

3 (b) If the child or consumer has filed a third-party action or
4 claim, the court in which the action or claim was filed shall have
5 jurisdiction over a dispute between the department or regional
6 center and the child or consumer regarding the amount of a lien
7 asserted pursuant to this section that is based upon an allocation
8 of damages contained in a settlement or compromise of the
9 third-party action or claim. If no third-party action or claim has
10 been filed, any superior court in California where venue would
11 have been proper, had a claim or action been filed, shall have
12 jurisdiction over the motion. The motion may be filed as a special
13 motion and treated as an ordinary law and motion proceeding
14 subject to regular motion fees. The reimbursement determination
15 motion shall be treated as a special proceeding of a civil nature
16 pursuant to Part 3 (commencing with Section 1063) of the Code
17 of Civil Procedure. When no action is pending, the person making
18 the motion shall be required to pay a first appearance fee. When
19 an action is pending, the person making the motion shall pay a
20 regular law and motion fee. Notwithstanding Section 1064 of the
21 Code of Civil Procedure, the child or consumer, the regional
22 center, or the department may appeal the final findings, decision,
23 or order.

24 (c) The court shall issue its findings, decision, or order, which
25 shall be considered the final determination of the parties' rights
26 and obligations with respect to the department's lien, unless the
27 settlement is contingent on an acceptable allocation of the
28 settlement proceeds, in which case, the court's findings, decision,
29 or order shall be considered a tentative determination. If the child
30 or consumer does not serve notice of a rejection of the tentative
31 determination, which shall be based solely upon a rejection of the
32 contingent settlement, within 30 days of the notice of entry of the
33 court's tentative determination, subject to further consideration
34 by the court pursuant to subdivision (d), the tentative determination
35 shall become final. Notwithstanding Section 1064 of the Code of
36 Civil Procedure, the child, consumer, regional center, or
37 department may appeal the final findings, decision, or order.

38 (d) If the consumer or child does not accept the tentative
39 determination, which shall be based solely upon a rejection of the
40 contingent settlement, any party may subsequently seek further

1 *consideration of the court's findings upon application to modify*
2 *the prior findings, decision, or order based on new or different*
3 *facts or circumstances. The application shall include an affidavit*
4 *showing what application was made before, when, and to what*
5 *judge, what order or decision was made, and what new or different*
6 *facts or circumstances, including a different settlement, are claimed*
7 *to exist. Upon further consideration, the court may modify the*
8 *allocation in the interest of fairness and for good cause.*

9 4659.17. *When the department or regional center has perfected*
10 *a lien upon a judgment or award in favor of a child eligible for*
11 *the California Early Intervention Program or a consumer against*
12 *any third party for an injury for which the consumer has received*
13 *services pursuant to this division, the department or the regional*
14 *center shall be entitled to a writ of execution as lien claimant to*
15 *enforce payment of the lien against the third party with interest*
16 *and other accruing costs as in the case of other executions. In the*
17 *event the amount of the judgment or award so recovered has been*
18 *paid to the child or consumer, the department or the regional*
19 *center shall be entitled to a writ of execution against the child or*
20 *consumer to the extent of the department's or the regional center's*
21 *lien, with interest and other accruing costs as in the case of other*
22 *executions.*

23 4659.18. *Notwithstanding any other provision of law, in no*
24 *event shall the department or the regional center recover an*
25 *amount greater than the child eligible for the California Early*
26 *Intervention Program or consumer recovers after deducting from*
27 *the settlement judgment, or award, attorney's fees and litigation*
28 *costs paid for by the child or consumer. If the recovery of the*
29 *department or regional center is determined under this section,*
30 *the reductions in subdivision (d) of Section 4659.12 shall not apply.*

31 4659.19. *The amount recovered by the department or regional*
32 *center shall not exceed the amount derived from applying Section*
33 *4659.12, 4659.16, or 4659.18, whichever is less.*

34 4659.20. *In the event that the child or consumer, his or her*
35 *guardian, conservator, limited conservator, personal*
36 *representative, estate, or survivors, or any of them brings an action*
37 *against the third party that may be liable for the injury, notice of*
38 *institution of legal proceedings, notice of settlement, and all other*
39 *notices required by this article shall be given to the director of the*
40 *department in Sacramento except in cases where the director*

1 specifies that notice shall be given to the Attorney General. All
2 notices shall be given by insurance carriers, as described in Section
3 14124.70, having liability for the child's or consumer's claim, and
4 by the attorney retained to assert the claim by the consumer or
5 child, or by the injured child or consumer, his or her guardian,
6 conservator, limited conservator, personal representative, estate,
7 or survivors, if no attorney is retained.

8 4659.21. Notwithstanding any other provision of law, all
9 carriers described in Section 14124.70, including automobile,
10 casualty, property, and malpractice insurers, shall enter into
11 agreements with regional centers and the department to permit
12 and assist the matching of the eligibility files of the department
13 and the regional centers against the carrier's claim files, utilizing,
14 if necessary, social security numbers as common identifiers for
15 the purpose of determining whether services were provided to a
16 child eligible for the California Early Intervention Program or
17 consumer because of an injury for which another person is liable,
18 or for which a carrier is liable in accordance with the provisions
19 of any policy of insurance. The carrier shall maintain a centralized
20 file of claimants' names, mailing addresses, and social security
21 numbers or dates of birth. This information shall be made available
22 to the department and the regional center upon a reasonable
23 request by the department or a regional center. The agreement
24 described in this section shall include financial arrangements for
25 reimbursing carriers for necessary costs incurred in furnishing
26 requested information.

27 4659.22. (a) Every health insurer, self-insured plan, group
28 health plan, as defined in Section 607(1) of the federal Employee
29 Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et
30 seq.), service benefit plan, managed care organization, including
31 health care service plans as defined in subdivision (f) of Section
32 1345 of the Health and Safety Code, licensed pursuant to the
33 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
34 (commencing with Section 1340) of Division 2 of the Health and
35 Safety Code), pharmacy benefit manager, or other party that is,
36 by statute, contract, or agreement, legally responsible for payment
37 of a claim for a health care item or service, upon request of the
38 department or a regional center for any records, or any
39 information contained in records pertaining to, an individual or
40 group health insurance policy or plan issued by the insurer or

1 *plan against, or pertaining to, the services paid by or claims made*
2 *against the insurer or plans under a policy or plan, shall make the*
3 *requested records or information available upon a certification*
4 *by the department or regional center that the individual is an*
5 *applicant for or recipient of services under this division, is an*
6 *applicant for or recipient of services under the California Early*
7 *Intervention Program, or is a person who is legally responsible*
8 *for the applicant or recipient, provided that the department and*
9 *regional center certifies its compliance with all state and federal*
10 *laws pertaining to the confidentiality of medical information.*

11 *(b) The department or regional center shall enter into a*
12 *cooperative agreement setting forth mutually agreeable procedures*
13 *for requesting and furnishing appropriate information, consistent*
14 *with laws pertaining to the confidentiality and privacy of medical*
15 *information. These procedures shall include any financial*
16 *arrangements as may be necessary to reimburse insurers or plans*
17 *for necessary costs incurred in furnishing requested information,*
18 *and the time and manner those procedures are to become effective.*
19 *The department shall make every effort to coordinate with the State*
20 *Department of Health Care Services to obtain this information for*
21 *this purpose, avoid duplication and administrative costs, and to*
22 *protect privacy of medical information pursuant to state and*
23 *federal law.*

24 *(c) The information required to be made available pursuant to*
25 *this section shall be limited to information necessary to determine*
26 *whether health care services have been or should have been*
27 *claimed and paid pursuant to an obligation of entities identified*
28 *in subdivision (a) and the terms and conditions of the enrollee's*
29 *contract or, in the case of a Medi-Cal beneficiary, pursuant to the*
30 *scope of the contract between the State Department of Health Care*
31 *Services and a Medi-Cal managed care health plan, with respect*
32 *to services received by a particular individual for which services*
33 *under this division or under the California Early Intervention*
34 *Program would be available.*

35 *(d) Not later than the date upon which the procedures agreed*
36 *to pursuant to subdivision (b) become effective, the director shall*
37 *establish guidelines to ensure that information relating to an*
38 *individual certified to be an applicant child or consumer, furnished*
39 *to any insurer or plan pursuant to this section, is used only for the*
40 *purpose of identifying the records or information requested in the*

1 manner so as not to violate the confidentiality of an applicant or
2 recipient.

3 (e) The department shall implement this section no later than
4 July 1, 2011.

5 4659.23. In order to assess overlapping or duplicate health
6 coverage, every health insurer, self-insured plan, group health
7 plan, as defined in Section 607(1) of the federal Employee
8 Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et
9 seq.), service benefit plan, managed care organization, including
10 health care service plans as defined in subdivision (f) of Section
11 1345 of the Health and Safety Code, licensed pursuant to the
12 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
13 (commencing with Section 1340) of Division 2 of the Health and
14 Safety Code), pharmacy benefit manager, or other party that is,
15 by statute, contract, or agreement, legally responsible for payment
16 of a claim for a health care item or service shall maintain a
17 centralized file of the subscribers', policyholders', or enrollees'
18 names, mailing addresses, and social security numbers or date of
19 birth, and where available, for all other covered persons, the names
20 and social security numbers or dates of births. This information
21 shall be made available to the department or a regional center
22 upon reasonable request. Notwithstanding Section 20230 of the
23 Government Code, the Board of Administration of the California
24 Public Employees' Retirement System and affiliated systems or
25 contract agencies shall permit data matches with the state
26 department to identify consumers with third-party health coverage
27 or insurance.

28 4659.24. (a) When the rights of a consumer or a child receiving
29 services under the California Early Intervention Program to
30 recovery from an insurer have been assigned to the department
31 or a regional center, an insurer shall not impose any requirement
32 on the department or the regional center that is different from any
33 requirement applicable to an agent or assignee of the covered
34 consumer or child.

35 (b) The department may garnish the wages, salary, or other
36 employment income of, and withhold amounts from state tax
37 refunds from, any person to whom both of the following apply:

38 (1) The person is required by a court or administrative order
39 to provide coverage of the costs of services provided to a child

1 under the California Early Intervention Program or a consumer
2 under this division.

3 (2) The person has received payment from a third party for the
4 costs of the services for the child or consumer, but he or she has
5 not used the payments to reimburse, as appropriate, either the
6 other parent or the person having custody of the child or consumer,
7 or the provider of the services, to the extent necessary to reimburse
8 the department for expenditures for those costs under this division.
9 All claims for current or past due child support shall take priority
10 over claims made by the department or the regional center.

11 (c) For purposes of this section, "insurer" includes every health
12 insurer, self-insured plan, group health plan, as defined in Section
13 607(1) of the federal Employee Retirement Income Security Act
14 of 1974 (29 U.S.C. Sec. 1001 et seq.), service benefit plan, managed
15 care organization, including health care service plans as defined
16 in subdivision (f) of Section 1345 of the Health and Safety Code,
17 licensed pursuant to the Knox-Keene Health Care Service Plan
18 Act of 1975 (Chapter 2.2 (commencing with Section 1340) of
19 Division 2 of the Health and Safety Code), pharmacy benefit
20 manager, or other party that is, by statute, contract, or agreement,
21 legally responsible for payment of a claim for a health care item
22 or service.

23 SEC. 15. Section 4791 of the Welfare and Institutions Code is
24 amended to read:

25 4791. (a) Notwithstanding any other provision of law or
26 regulation, between July 1, 2010, and June 30, ~~2011~~, 2012,
27 inclusive, regional centers may temporarily modify personnel
28 requirements, functions, or qualifications, or staff training
29 requirements for providers, except for licensed or certified
30 residential providers, whose payments are reduced by 4.25 percent
31 pursuant to the amendments to Section 10 of Chapter 13 of the
32 Third Extraordinary Session of the Statutes of 2009, ~~as contained~~
33 ~~in Section 164 of the act that adds this section~~ as amended by
34 Section 164 of Chapter 717 of the Statutes of 2010.

35 (b) A temporary modification pursuant to subdivision (a),
36 effective during any agreed upon period of time between July 1,
37 2010, and June 30, ~~2011~~, 2012, inclusive, may only be approved
38 when the regional center determines that the change will not do
39 any of the following:

1 (1) Adversely affect the health and safety of a consumer
2 receiving services or supports from the provider.

3 (2) Result in a consumer receiving services in a more restrictive
4 environment.

5 (3) Negatively impact the availability of federal financial
6 participation.

7 (4) Violate any state licensing or labor laws or other provisions
8 of Title 17 of the California Code of Regulations not eligible for
9 modification pursuant to this section.

10 (c) A temporary modification pursuant to subdivision (a) shall
11 be described in a written services contract between the regional
12 center purchasing the services and the provider, and a copy of the
13 written services contract and any related documentation shall be
14 retained by the provider and the regional center purchasing the
15 services from the provider.

16 (d) Notwithstanding any other provision of law or regulation,
17 the department shall suspend, from July 1, 2010, to June 30, ~~2011~~,
18 2012, inclusive, the requirements described in Sections 56732 and
19 56800 of Title 17 of the California Code of Regulations requiring
20 community-based day programs and in-home respite agencies to
21 conduct annual reviews and to submit written reports to vendoring
22 regional centers, user regional centers, and the department.

23 (e) Notwithstanding any other provision of law or regulation,
24 from July 1, 2010, to June 30, ~~2011~~, 2012, inclusive, a residential
25 service provider, vendored by a regional center and whose payment
26 is reduced by 4.25 percent pursuant to the amendments to Section
27 10 of Chapter 13 of the Third Extraordinary Session of the Statutes
28 of 2009, ~~as contained in Section 163 of the act that adds this section~~
29 *as amended by Section 164 of Chapter 717 of the Statutes of 2010*,
30 shall not be required to complete quarterly and semiannual progress
31 reports required in subdivisions (b) and (c) of Section 56026 of
32 Title 17 of the California Code of Regulations. During program
33 review, the provider shall inform the regional center case manager
34 of the consumer's progress and any barrier to the implementation
35 of the individual program plan for each consumer residing in the
36 residence.

37 *SEC. 16. Section 10 of Chapter 13 of the Third Extraordinary*
38 *Session of the Statutes of 2009, as amended by Section 164 of*
39 *Chapter 717 of the Statutes of 2010, is amended to read:*

1 Sec. 10. (a) Notwithstanding any other provision of law, in
2 order to implement changes in the level of funding for regional
3 center purchase of services, regional centers shall reduce payments
4 for services and supports provided pursuant to Title 14
5 (commencing with Section 95000) of the Government Code and
6 Division 4.1 (commencing with Section 4400) and Division 4.5
7 (commencing with Section 4500) of the Welfare and Institutions
8 Code. From February 1, 2009, to June 30, 2010, inclusive, regional
9 centers shall reduce all payments for these services and supports
10 paid from purchase of services funds for services delivered on or
11 after February 1, 2009, by 3 percent, and from July 1, 2010, to
12 June 30, ~~2011~~, 2012, inclusive, by 4.25 percent, unless the regional
13 center demonstrates that a nonreduced payment is necessary to
14 protect the health and safety of the individual for whom the services
15 and supports are proposed to be purchased, and the State
16 Department of Developmental Services has granted prior written
17 approval.

18 (b) Regional centers shall not reduce payments pursuant to
19 subdivision (a) for the following:

20 (1) Supported employment services with rates set by Section
21 4860 of the Welfare and Institutions Code.

22 (2) Services with “usual and customary” rates established
23 pursuant to Section 57210 of Title 17 of the California Code of
24 Regulations.

25 (3) Payments to offset reductions in Supplemental Security
26 Income/State Supplementary Payment (SSI/SSP) benefits for
27 consumers receiving supported and independent living services.

28 (c) Notwithstanding any other provision of law, in order to
29 implement changes in the level of funding appropriated for regional
30 centers, the department shall amend regional center contracts to
31 adjust regional center budgets accordingly for the 2008–09 fiscal
32 year through the ~~2010–11~~ 2011–12 fiscal year. The contract
33 amendments and budget adjustments shall be exempt from the
34 provisions of Article 1 (commencing with Section 4620) of Chapter
35 5 of Division 4.5 of the Welfare and Institutions Code.

36 *SEC. 17. The sum of one thousand dollars (\$1,000) is hereby*
37 *appropriated from the General Fund to the State Department of*
38 *Developmental Services for administrative costs.*

39 *SEC. 18. This act addresses the fiscal emergency declared and*
40 *reaffirmed by the Governor by proclamation on January 20, 2011,*

1 *pursuant to subdivision (f) of Section 10 of Article IV of the*
2 *California Constitution.*

3 *SEC. 19. This act is a bill providing for appropriations related*
4 *to the Budget Bill within the meaning of subdivision (e) of Section*
5 *12 of Article IV of the California Constitution, has been identified*
6 *as related to the budget in the Budget Bill, and shall take effect*
7 *immediately.*

8 *SEC. 20. This act is an urgency statute necessary for the*
9 *immediate preservation of the public peace, health, or safety within*
10 *the meaning of Article IV of the Constitution and shall go into*
11 *immediate effect. The facts constituting the necessity are:*

12 *In order to make changes necessary for implementation of the*
13 *Budget Act of 2011, it is necessary that this act take effect*
14 *immediately.*

15 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
16 ~~changes relating to the Budget Act of 2011.~~